

ie



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,267	02/23/2000	Joachim Eicher	0652.2020002/LEA/ALF	3620

7590 03/22/2002

Sterne Kessler Goldstein & Fox PLLC  
Attorneys at Law  
Suite 600  
1100 New York Avenue N W  
Washington, DC 20005-3934

EXAMINER

MITCHELL, TEENA KAY

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 03/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/511,267

Applicant(s)

EICHER ET AL.

Examiner

Teena K Mitchell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, dispensing device including an upper portion for receiving the cartridge and a lower portion, the plug connection, screw connection, bayonet connection, snap connection, thermoplastic material by means of a welded joint with merging of materials, snap hooks, the axis, stiff outer casing being a unitary piece, the opening in bottom of the stiff outer casing being a bore, and atomizer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer

program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***It is suggested that HEADINGS be placed throughout the Specification.  
Also a Brief Description of the Drawings is needed.***

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 39-86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 39 and 71, "...stable in respect of shape..." is indefinite; it is unclear as to what is meant by stable in respect of shape (i.e. is it that regardless of the shape of the container it is stable and if so stable with respect to what?).

Claim 39 recites the limitation "...the connected cartridge..." in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 42, line 2, "...force-locking and positively locking relationship..." is indefinite; it is unclear as to what is being claimed (i.e. if something is force-locked is it not positively locked?).

Claim 46 recites the limitation "...the end of the insertion connection..." in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "...the axis of the insertion connection portion..." in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 47 recites the limitation "...the upper edge..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 47 recites the limitation "...the inside of the stopper..." in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 48 recites the limitation "...the inside of the stopper..." in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 53, lines 1 and 2, "...a deep-drawn metal casing..." is indefinite; it is unclear as to what is meant by deep-drawn metal.

Claims 57 and 58, line 2, "...its bottom..." the use of the word its, renders the claim indefinite; it is unclear as to what its is suppose to represent.

Claims 59 and 60 recites the limitation "...the recess..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 60 recites the limitation "...the case of a circular cross-section..." in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 61, line 2, "...in front of the micro-opening..." is indefinite; it is unclear as to where the front of the micro-opening is located inasmuch as no front or back has been claimed with respect to the micro-opening.

Claim 62, lines 2 and 3, "...force-locking and positively locking relationship..." is indefinite; it is unclear as to what is being claimed (i.e. if something is force-locked is it not positively locked?).

Claims 64 and 65, line 2, "...its upper..." the use of the word its, renders the claim indefinite; it is unclear as to what its is suppose to represent.

Claim 66 recites the limitation "...the region..." in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 67 and 68 recites the limitation "...the outside..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 68 recites the limitation "...the central region of the sealing foil..." in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 70 recites the limitation "...the peripherally extending groove..." in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 70 and 71, "...peripherally extending groove..." is indefinite; it is unclear as to what constitutes peripherally (i.e. peripheral to what?).

Claim 70 recites the limitation "...the upper part..." in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 72 recites the limitation "...the inside of the bottom..." in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 72 recites the limitation "...the underside of the bottom..." in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74, lines 6, 5, and 9, "...its end..." the use of the word its, renders the claim indefinite; it is unclear as to what its is suppose to represent.

Claims 73 and 74 recites the limitation "...the axis of the insertion connection portion..." in lines 7 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74 recites the limitation "...the releasable plug connection..." in lines 10 and 12. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74, lines 12 and 15, "...a peripherally extending groove..." is indefinite; it is unclear as to what constitutes peripherally (i.e. peripheral to what?).

Claims 73 and 74 recites the limitation "...the upper region of the cartridge..." in lines 12 and 15. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74 recite the limitation "...the inside of the bottom..." in lines 15 and 16. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74 recites the limitation "...the push-on portion..." in lines 15 and 16. There is insufficient antecedent basis for this limitation in the claim.

Claims 73 and 74 recites the limitation "...the underside of the bottom..." in lines 16 and 17. There is insufficient antecedent basis for this limitation in the claim.

Claims 84-86 recites the limitation "...the treatment..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-42, 45, 53-56, 71, and 75-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hultgren et.al (3,255,972).

Hultgren (as best understood by the examiner) in a cartridge for a liquid (9) discloses, which can be connected to a dispensing device (see illustration of Fig. 3 below), the dispensing device including an upper portion (at 38) for receiving the cartridge (9) and a lower portion (32) which can be pushed over a connected cartridge, the upper portion of the device being provided with a connection portion (38) and with a dispensing connection portion (10) for drawing off the liquid, the cartridge comprising:

- a stiff outer casing (33);
- a container (34) which is stable in respect of shape and which is disposed in the casing (33);
- a collapsible bag (43) disposed in the container (34) and containing the liquid (Fig. 3);
- wherein the stiff outer casing (33) includes a bottom (See illustration of Fig. 3 below) provided with an opening, and



-

With respect to claim 40, Hultgren discloses wherein the cartridge is releasably connected to the connection portion by means of a plug connection (at 18).

The difference between Hultgren and claim 41 is a screw connection or a bayonet connection.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a screw connection or a bayonet connection because Applicant has not disclosed that using a screw or a bayonet connection provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicants invention to perform equally well either with the plug connection taught by Hultgren or the claimed screw connection or bayonet connection because both provide a releasable connection for the cartridge.

Therefore, it would have been an obvious matter of design choice to modify Hultgren to obtain the invention as specified in claim 41.

Claims 42, 45, and 71 are equivalent in scope to claims 39 and 40 discussed above and are included in Hultgren.

With respect to claim 53, Hultgren does not address the kind of material used in the stiff outer casing except for being a ridge container (col. 1, lines 35-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the stiff outer casing of a deep-drawn metal casing, since it has been held to be within the general skill of a worker in the art to select a known material on the

Art Unit: 3761

basis of its suitability for the intended use as a matter of choice, absent persuasive evidence that using a particular material is significant. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Claims 54-56 and 75-80 are equivalent in scope to claim 53 discussed above and are included in Hultgren.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of art is cited to show cartridges for liquids.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena K Mitchell whose telephone number is (703) 308-4016. The examiner can normally be reached on Monday-Thursday 5:30 AM to 4:30 PM.

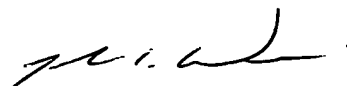
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

*TKM*

TKM

March 19, 2002



John G. Weiss  
Supervisory Patent Examiner  
Group 3700